

May 7, 2009

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DEPT OF TRANSPORTATION
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Counsel to Respondents

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.**

Ultimate Fares, Inc. and Roni Herskovitz

**Violations of 14 CFR 399.80(f), 14 CFR 399.84
and U.S.C. § 41712**

Enforcement Proceeding

DOT-OST-2009-0002

**RESPONDENTS' MOTION FOR EXTENSION OF TIME TO ANSWER
ENFORCEMENT COMPLAINT**

Pursuant to 14 C.F.R. §§ 302.11, and 408-.409, Ultimate Fares, Inc. and Ron Herskovitz, (collectively, "Respondents"), hereby request an extension of time to answer the Enforcement Complaint filed on April 1, 2009, in the above-referenced action.

BACKGROUND

Respondents never received service of the Enforcement Complaint and, due to circumstances beyond their control, were not otherwise made aware of the proceedings against them. When Respondents learned about the Enforcement Complaint two days ago, they retained counsel the same day. Thus, only two days passed from when Respondents' first had notice of

the action and when they appeared to defend on the merits. This is good cause for allowing an extension of time to file an answer.

For further facts in support of this Motion, Respondents refer your Honor to Respondents' Opposition to Motion for Default Judgment, filed herewith.

Additionally, attempting to avoid potential prejudice to the Office of Aviation Enforcement Proceedings ("Enforcement Office") and to ensure this matter moves along in an expeditious manner, Respondents submit the Answer attached as Exhibit A to this Motion for filing.

ARGUMENT

Pursuant to 14 C.F.R. § 302.409, this Court "may permit late filing of an answer for good cause shown." Here, Respondents have shown that – through no fault of their own – they did not have notice of this action until May 5, 2009. Upon learning of the action, Respondents have acted with extreme diligence and expediency in an effort to appear in this matter. Given that Respondents did not receive formal notice of this action and have acted diligently after they learned of this case, an extension of time to file an answer should be granted. The extension need only be as long as is necessary for the Court to direct that the attached Answer be filed. The Enforcement Office has suffered absolutely no prejudice and will suffer none from an extension because the proceedings have not yet begun and because no further time is requested.

As set forth in the attached Answer, Respondents have meritorious defenses to the allegations in the Enforcement Complaint, yet stand to be penalized in draconian fashion with the chance to assert those defenses. Indeed, although there is no basis for personal liability on the merits, Herskovitz will be subjected to a \$1,000,000 penalty if the Court enters a procedural default– a particularly egregious and unfair result. Respondents plan to vigorously defend their

innocence and rights in this matter and, for the reasons stated above an in Respondents' Opposition to Motion for Default Judgment, respectfully request that they be granted an extension of time to respond to the Enforcement Complaint and that the Court accept direct the attached Answer be accepted for filing.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court grant their Motion for Extension of Time to Answer Enforcement Complaint and accept the attached Answer for filing.

Dated: May 7, 2009



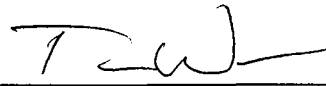
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ATTORNEYS FOR RESPONDENTS

VERIFICATION

Pursuant to Title 18 United States Code Section 1001, I Todd Wind, in my individual capacity and as the authorized representative of the pleader, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents in connection with the preparation, filing or prosecution of the pleading. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

Dated: May 7, 2009



Todd Wind

CERTIFICATE OF SERVICE

I certify that on May 7, 2009, a true and correct copy of **RESPONDENTS' MOTION FOR EXTENSION OF TIME TO ANSWER ENFORCEMENT COMPLAINT** was sent via electronic mail to the following individuals:

Honorable Richard C. Goodwin Administrative Law Judge Office of Hearings, M-20 U.S. Department of Transportation 1200 New Jersey Avenue, SE Washington, DC 20590 (202) 366-2139 - Telephone (202) 366-7536- Facsimile richard.goodwin@dot.gov	Samuel Podberesky, Esq. Jonathan Dols, Supervisory Trial Attorney Maegan Johnson, Trial Attorney Office of Aviation Enforcement and Proceedings, C-70; Room W96-464 U.S. Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590 (202) 366-9342 – Telephone (202) 366-7152 - Facsimile sam.podberesky@ost.dot.gov maegan.johnson@dot.gov jonathan.dols@dot.gov
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Dated: May 7, 2009



Patrick Mahlberg